

**STATE OF CONNECTICUT**  
**BOARD OF EXAMINERS FOR NURSING**

Department of Public Health

Petition No. 2000-0914-011-037

vs.

Rebecca Miller, LPN, Lic. No. 024958  
Respondent

**MEMORANDUM OF DECISION**

***Procedural Background***

The Board of Examiners for Nursing (hereinafter “the Board”) was presented by the Department of Public Health (hereinafter “the Department”) with a Statement of Charges and Motion for Summary Suspension dated November 6, 2000. Dept. Exh. 6. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Rebecca Miller, LPN (hereinafter “respondent”) which would subject respondent’s licensed practical nurse license to disciplinary action pursuant to the General Statutes of Connecticut.

Based on the allegations in the Statement of Charges and accompanying affidavits and reports, the Board found that respondent’s continued nursing practice presented a clear and immediate danger to public health and safety. On November 15, 2000, the Board ordered, pursuant to its authority under §4-182(c) and §19a-17(c) of the General Statutes of Connecticut, that respondent’s licensed practical nurse license be summarily suspended pending a final determination by the Board of the allegations contained in the Statement of Charges. Dept. Exhs. 1 and 6.

The Board issued a Notice of Hearing dated November 15, 2000 scheduling a hearing for December 6, 2000. Dept. Exh. 1. The Notice of Hearing sent to respondent was returned by the United States Postal Service (hereinafter “USPS”) as “undeliverable as addressed unable to forward.” To ensure that respondent received sufficient notice of the hearing and the Statement of Charges, the Board continued the hearing to December 20, 2000. Dept. Exh. 2; Tr., December 6, 2000, pp. 4-5.

The hearing scheduled for December 20, 2000, was continued to January 3, 2001. Dept. Exh. 3. A Notice of Rescheduled Hearing was sent to respondent by certified mail and first class mail to 250 Groton Long Point Road, Noank, Connecticut, 06340. The certified mail was returned by the USPS as “unclaimed.” On December 29, 2000 the Notice of Rescheduled Hearing and

Statement of Charges were served, in hand, on respondent by State Marshal at 250 Groton Long Point Road, Groton, Connecticut. The hearing scheduled for January 3, 2001 was continued due to respondent's illness and was rescheduled to February 7, 2001. Dept. Exh. 5; Tr. February 7, 2001, pp. 4-5.

A Notice of Rescheduled Hearing for the February 7, 2001 hearing was sent to respondent by certified mail and first class mail at 250 Groton Long Point Road, Noank, Connecticut, 06340. The certified mail was returned by the USPS as "unclaimed" (Dept. Exh. 5), the first class mail was not returned.

Section 19a-9-18 of the Regulations of Connecticut State Agencies provides that the Notice of Hearing shall be in writing and shall be personally delivered or sent by United States mail, certified or registered, postage prepaid, return receipt requested. In addition, this section provides that "[i]f such notice is not actually received by a party . . . service shall be deemed sufficient provided that the department . . . has made all reasonable efforts to effectuate notice." The Board concludes that this requirement was satisfied by the Department's efforts, and therefore, notice is deemed sufficient.

The hearing took place on February 7, 2001, at the Wethersfield Town Hall, Town Council Chambers, 505 Silas Deane Highway, Wethersfield, Connecticut.

Respondent was not present during the hearing and was not represented by counsel. Tr. February 7, 2001, pp. 2-9.

The Department filed a Motion to Amend the Statement of Charges which was granted by the Board. Dept. Exh. 8.

Each member of the Board involved in this decision attests that he/she was present at the hearing or has reviewed the record, and that this decision is based entirely on the record, the law, and the Board's specialized professional knowledge in evaluating the evidence.

### ***Findings of Fact***

Based on the testimony given and the exhibits offered into evidence, the Board makes the following Findings of Fact:

1. Respondent was issued licensed practical nurse license number 024958 on June 1, 1993. Respondent was the holder of said license at all times referenced in the Statement of Charges. Dept. Exh. 6-B.

2. At all relevant times, respondent was employed as a licensed practical nurse at Gladeview Health Care Center in Old Saybrook, Connecticut. Dept. Exh. 6.
3. On or about August 2000 while working as a licensed practical nurse at Gladeview Health Care Center, respondent:
  - a. diverted Percocet and Vicodin;
  - b. failed to completely, properly and/or accurately document medical or hospital records; and/or
  - c. falsified one or more Controlled Substance Receipt Records. Dept. Exh. 6-A.
4. In or about August 2000, respondent abused or utilized to excess Percocet and Vicodin. Dept. Exh. 6-A.
5. Respondent suffers from an emotional disorder and or mental illness which does, and/or may affect her practice as a licensed practical nurse. Dept. Exh. 7 (under seal).

### ***Conclusions of Law and Discussion***

In consideration of the above Findings of Fact, the following conclusions are rendered:

Rebecca Miller held a valid licensed practical nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The Notice of Hearing and Statement of Charges provided sufficient legal notice as mandated by *Conn. Gen. Stat.* §4-177(a) and (b), and §4-182(c). The hearing was held in accordance with *Conn. Gen. Stat.* Chapters 54 and 368a as well as §19a-9-1 through §19a-9-29 of the Regulations of Connecticut State Agencies.

The Notice of Hearing, Statement of Charges, and the hearing process provided respondent with the opportunity to demonstrate compliance with all lawful requirements for the retention of her license as required by *Conn. Gen. Stat.* §4-182(c).

The Department bears the burden of proof by a preponderance of the evidence in this matter.

**COUNT ONE PARAGRAPH 3** of the Amended Statement of Charges alleges that on or about August 2000, while working as a Licensed Practical Nurse at Gladeview Health Care Center, respondent:

- a. diverted Percocet and Vicodin;
- b. failed to completely, properly and/or accurately document medical or hospital records; and/or
- c. falsified one or more Controlled Substance Receipt Records.

**COUNT ONE PARAGRAPH 4** of the Amended Statement of Charges alleges that on or about August 2000, respondent abused or utilized to excess Percocet and Vicodin.

**COUNT ONE PARAGRAPH 5** of the Amended Statement of Charges alleges that respondent's abused of Percocet and Vicodin does and/or may, affect her practice as a licensed practical nurse.

**COUNT TWO PARAGRAPH 8** of the Amended Statement of Charges alleges that respondent suffers from an emotional disorder and or mental illness which does, and/or may affect her practice as a licensed practical nurse.

Respondent did not submit an Answer to the Statement of Charges. Pursuant to §19-9-20 of the Regulations of Connecticut State Agencies the Board deems the allegations in the Statement of Charges to be admitted.

The *Conn. Gen. Stat.* §20-99 provides in relevant part:

(a) The Board of Examiners for Nursing shall have jurisdiction to hear all charges of conduct which fails to conform to the accepted standards of the nursing profession brought against persons licensed to practice nursing. After holding a hearing . . . said board, if it finds such person to be guilty, may revoke or suspend his or her license or take any of the actions set forth in section 19a-17 . . . (b) Conduct which fails to conform to the accepted standards of the nursing profession includes, but is not limited to, the following . . . (2) illegal conduct, incompetence or negligence in performing usual nursing functions . . . (4) emotional disorder or mental illness . . . (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals . . . (6) fraud or material deception in the course of professional services or activities . . .

Based on its findings, the Board concludes that respondent's conduct as alleged in First Count and the Second Count of the Statement of Charges is proven by a preponderance of the evidence presented. The Board further concludes that said conduct constitutes violations of *Conn. Gen. Stat.* §20-99(b) (2), (4), (5), and (6). Therefore, respondent's licensed practical nurse license is subject to disciplinary action pursuant to *Conn. Gen. Stat.* §19a-17.

***Order***

Pursuant to its authority under *Conn. Gen. Stat.* §19a-17 and §20-99, the Board of Examiners for Nursing hereby orders the following:

For Count One of the Amended Statement of Charges, respondent's license is revoked effective the date this Memorandum of Decision is signed by the Board of Examiners for Nursing.

For Count Two of the Amended Statement of Charges, respondent's license is revoked effective the date this Memorandum of Decision is signed by the Board of Examiners for Nursing.

The Board of Examiners for Nursing hereby informs respondent, Rebecca Miller, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Wethersfield, Connecticut this 6<sup>th</sup> day of June, 2001.

BOARD OF EXAMINERS FOR NURSING

By 